

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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DOUGLAS J. HORN and CINDY HARP-HORN,

Plaintiff,

Civ Action No: 15-cv-701 FPG/MJR

-against-

**PLAINTIFFS' SUPPLEMENTAL
AFFIDAVIT IN OPPOSITION TO
DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT**

MEDICAL MARIJUANA, INC.,
DIXIE ELIXIRS AND EDIBLES,
RED DICE HOLDINGS, LLC, and
DIXIE BOTANICALS,

Defendants,

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STATE OF CALIFORNIA)
: ss.:
COUNTY OF)

DOUGLAS J. HORN, being duly sworn, deposes and says:

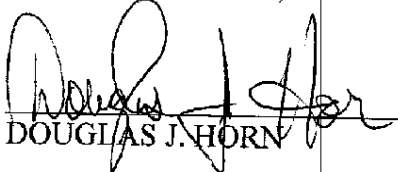
1. I and my wife Cindy are the Plaintiffs in this action.
2. We submit this Supplemental Affidavit in Opposition to Defendants' motions for summary judgment. As such, I primarily defer to my counsel's Declaration in Support and his Memorandas of Law, along with all the other Affidavits and Exhibits annexed herewith.
3. We understand that the Defendants' argue in part that we are not New York consumers, and the consumer protection statues in New York do not protect us. We respectfully state this argument is absurd.
4. We have been residents of New York since 1998. We have not lived or maintained a residence in any other state or country since then.
5. As a husband and wife team of over-the-road truckers, our work leading up to October, 2012 caused us to travel as a way of life. We quite possibly travelled in and through every state in the United States and temporarily stayed in each of them as well.

6. However, as is evident by Defendants' own invoice to us (Exhibit "4"), they shipped it to us to our New York home, and that is where we received it. Plaintiff DOUGLAS HORN opened the package there and took it in New York.

7. The fact that we saw the product advertised in a magazine while stopped in Texas, advertised in Defendants' FAQs website from a computer, and viewed the YouTube videos at issue from a computer should respectfully be irrelevant to the Court when determining our domicile and which state's consumer protection statutes protect us. We have no other connection to another state, and unequivocally New York's statutes must apply. By analogy and for example, Texas consumer statutes will not protect us as residents of, and receiving and taking the product in New York.

8. We respectfully request the Court deny Defendants' motions on this basis as to our New York GBL 349 and 350 claims.

Dated: November 14, 2018

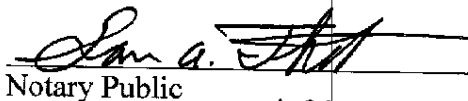

DOUGLAS J. HORN

Subscribed and Sworn to before me this
14 day of November, 2018.

Notary Public


CINDY HARP-HORN

Subscribed and Sworn to before me this
14 day of November, 2018.


Notary Public

PLEASE SEE ATTACHMENT FOR NOTARY

California All-Purpose Certificate Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of: California

County of: San Bernardino

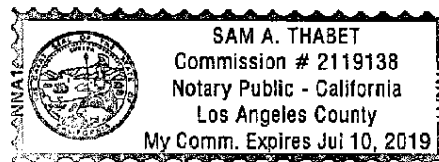
On 11/14/2018 before me, Sam A. Thabet - Notary Public
Month / Day / Year Name and Title of Officer

personally appeared DOUGLAS J. HORN AND CINDY HARP-HORN

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



[Signature]
Signature of Notary Public

(Seal)

Description of Attached Document

Title or Type of Document: CIV ACTION NO: 15-CV-701 FPG/MJR

Document Date: 11/14/2018 Number of Pages: 02 Number of Signers: 02
Month Day Year

Optional

Name(s) & Thumb Print(s) of person(s) Notarized:

(A) _____
(B) _____
(C) N/A
(D) _____
(E) _____

Right Thumbprint of Signer(s)				
Person A	Person B	Person C	Person D	Person E
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	